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23405   7590   12/11/2009

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

EXAMINER
CHONG CRUZ, NADJA N

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 12/11/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,128	08/21/2003	Timothy J. Chainer	YOR903282US1	7120

TITLE OF INVENTION: AUTOMATIC COLLECTION AND DISSEMINATION OF PRODUCT USAGE INFORMATION

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1510	$300	$0	$1810	03/11/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail**   Mail Stop ISSUE FEE
Commissioner for Patents
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Alexandria, Virginia 22313-1450
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CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

23405   7590   12/11/2009

HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

_____ (Depositor's name)

_____ (Signature)

_____ (Date)

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nonprovisional	NO	$1510	$300	$0	$1810	03/11/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
CHONG CRUZ, NADJA N	3623	705-010000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE   (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) :   ☐ Individual   ☐ Corporation or other private group entity   ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.   ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____   Date _____

Typed or printed name _____   Registration No. _____

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23405 7590 12/11/2009	EXAMINER
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ALBANY, NY 12203	3623

DATE MAILED: 12/11/2009

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 1336 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1336 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

	Application No.	Applicant(s)
Notice of Allowability	10/645,128	CHAINER ET AL.
	Examiner	Art Unit
	NADJA CHONG CRUZ	3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *the document received on 7/16/09.*

2. ☒ The allowed claim(s) is/are *1-12 and 49-70.*

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

        a) ☐ All   b) ☐ Some*   c) ☐ None   of the:

            1. ☐ Certified copies of the priority documents have been received.

            2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

            3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

    * Certified copies not received: _____ .

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

    (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

        1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.

    (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

    Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____

4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____.

/Beth V. Boswell/
Supervisory Patent Examiner, Art Unit 3623

DETAILED ACTION

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection.   Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 16 July 2009 has been entered.

2.   The following action is a response to the communication of July 16, 2009. Claims 1, 49 and 60 have been amended by Examiner's Amendment. Further, claims 19-21 and 71-72 have been cancelled. Claims 1-12 and 49-70 are now pending in this application and are allowed. This action includes an Examiner's Amendment and Reasons for Allowance.

Examiner's Amendment

3.   An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Blanche Schiller (Reg. # 35,670) on December 3, 2009. It is further noted that the agreement was reached via a series of conversation that took at various times from 12/2/2009 until 12/3/2009. The application has been amended as follows:

In the claims:

Please amend claim 1 as follow:

1.   A method of facilitating provision of product usage information to interested entities, said method comprising:

        automatically obtaining, by a processor <u>of a product user</u>, product usage information generated by a plurality of products, used in real-time, non-test environments, wherein the automatically obtained product usage information includes at least product usage information

obtained regarding one product <u>local to the product user</u> and product usage information obtained

regarding another product <u>global to the product user</u>, wherein the plurality of products include

autonomic logic <u>used to automatically monitor one or more parameters of the plurality of</u>

<u>products</u>, and wherein the automatically obtaining is independent of product user input;

    <u>using the product usage information obtained by the product user to create a shared</u>

<u>knowledge base, wherein the shared knowledge base further includes historic usage data</u>

<u>concerning the product local to the product user and the product global to the product user;</u>

    <u>statistically</u> analyzing, by the processor <u>of the product user, content of</u> ~~the obtained~~

~~product usage information generated from the plurality of products to obtain an analysis, wherein~~

~~the analyzing analyzes at least obtained product usage information of the one product~~

~~together with the obtained product usage information of the another product to provide the~~

~~analysis which provides usage data that represents usage of at least both the one product and~~

~~the another product~~ <u>the shared knowledge base, the content including the product usage</u>

<u>information and the historic usage data, wherein the analyzing produces an analysis comprising</u>

<u>expression of a difference in the product usage information by make, model, and manufacturing</u>

<u>vintage;</u>

    automatically providing a summary of the analysis to ~~at least one~~ an interested entity<u>; to</u>

~~determine whether a change is to be made to the plurality of products or future products, wherein~~

~~the summary of the analysis includes data for at least the one product and for the another~~

~~product, including historical information relating to the one product and the another product.~~

    <u>performing, by the interested entity, a second analysis using the received summary of</u>

<u>analysis and information from testing by the entity of a product of the interested entity;</u>

    <u>automatically determining based on results of the second analysis and an initial</u>

<u>performance metric of a product of the interested entity whether a change is to be made to a</u>

<u>product of the interested entity;</u>

    <u>sending, by the interested entity, the results of the second analysis to the autonomic logic</u>

<u>of the local product of the product user;</u>

automatically changing the product of the interested entity based on the determining step and automatically changing the local product of the product user based on the results of the second analysis received by the autonomic logic.

Please amend claim 49 as follow:

49.   A computer program product for facilitating provision of product usage information to interested entities, said computer program product comprising:

a storage medium readable by a processor and storing instructions for execution by the processor for performing a method comprising:

automatically obtaining, by a processor of a product user, product usage information generated by a plurality of products, used in real-time, non-test environments, wherein the automatically obtained product usage information includes at least product usage information obtained regarding one product local to the product user and product usage information obtained regarding another product global to the product user, wherein the plurality of products include autonomic logic used to automatically monitor one or more parameters of the plurality of products, and wherein the automatically obtaining is independent of product user input;

using the product usage information obtained by the product user to create a shared knowledge base, wherein the shared knowledge base further includes historic usage data concerning the product local to the product user and the product global to the product user;

statistically analyzing, by the processor of the product user, content of the obtained product usage information generated from the plurality of products to obtain an analysis, wherein the analyzing analyzes at least the obtained product usage information of the one product together with the obtained product usage information of the another product to provide the analysis which provides usage data that represents usage of at least both the one product and the another product the shared knowledge base, the content including the product usage information and the historic usage data, wherein the analyzing produces an analysis comprising expression of a difference in the product usage information by make, model, and manufacturing vintage;

automatically providing a summary of the analysis to ~~at least one~~ an interested entity; ~~to determine whether a change is to be made to the plurality of products or future products, wherein the summary of the analysis includes data for at least the one product and for the another product, including historical information relating to the one product and the another product.~~

performing, by the interested entity, a second analysis using the received summary of analysis and information from testing by the entity of a product of the interested entity;

automatically determining based on results of the second analysis and an initial performance metric of a product of the interested entity whether a change is to be made to a product of the interested entity;

sending, by the interested entity, the results of the second analysis to the autonomic logic of the local product of the product user;

automatically changing the product of the interested entity based on the determining step and automatically changing the local product of the product user based on the results of the second analysis received by the autonomic logic.

Please amend claim 60 as follow:

60.   A computer system for facilitating provision of product usage information to interested entities, said computer system comprising:

a memory;

and a processor in communications with the memory, wherein the computer system is capable of performing a method, said method comprising:

automatically obtaining, by a processor of a product user, product usage information generated by a plurality of products, used in real-time, non-test environments, wherein the automatically obtained product usage information includes at least product usage information obtained regarding one product local to the product user and product usage information obtained regarding another product global to the product user, wherein the plurality of products include autonomic logic used to automatically monitor one or more parameters of the plurality of products, and wherein the automatically obtaining is independent of product user input;

using the product usage information obtained by the product user to create a shared knowledge base, wherein the shared knowledge base further includes historic usage data concerning the product local to the product user and the product global to the product user;

statistically analyzing, by the processor of the product user, content of ~~the obtained product usage information generated from the plurality of products to obtain an analysis, wherein the analyzing analyzes at least the obtained product usage information of the one product together with the obtained product usage information of the another product to provide the analysis which provides usage data that represents usage of at least both the one product and the another product~~ the shared knowledge base, the content including the product usage information and the historic usage data, wherein the analyzing produces an analysis comprising expression of a difference in the product usage information by make, model, and manufacturing vintage;

automatically providing a summary of the analysis to ~~at least one~~ an interested entity; ~~to determine whether a change is to be made to the plurality of products or future products, wherein the summary of the analysis includes data for at least the one product and for the another product, including historical information relating to the one product and the another product.~~

performing, by the interested entity, a second analysis using the received summary of analysis and information from testing by the entity of a product of the interested entity;

automatically determining based on results of the second analysis and an initial performance metric of a product of the interested entity whether a change is to be made to a product of the interested entity;

sending, by the interested entity, the results of the second analysis to the autonomic logic of the local product of the product user;

automatically changing the product of the interested entity based on the determining step and automatically changing the local product of the product user based on the results of the second analysis received by the autonomic logic.

Please cancel claims 19-21 and 71-72.

Reason for Allowance

4.   The following is an examiner's statement of reasons for allowance: None of the prior art of record,

taken individually or in any combination, teaches, inter alia, a method, computer program product

and system for automatically changing the product of an entity and the local product of the

product user based on the results of a second analysis received by the autonomic logic as recited

in claims 1, 49 and 60.

5.   The closest prior art Lenny et al., (US 2002/0060868 A1) and Gray et al., (US 6,549,887 B1) fails

to teach or suggest either singularly or in combination a second analysis by an entity based on

received results of a first analysis performed by a product user about his local product in a non-

test environment, the autonomic logic, based on the results of the second analysis by the entity,

drives to automatically changing both the entity's product and the product local as disclosed in

claims 1, 49 and 60. Lenny et al., teaches an "apparatus, modules, means, and computer

readable media for and a method of logging critical events to a critical event log storage area"

(Abstract); "[s]mart was developed as a tool for predicting a disc drive failure by collecting the disc

drive attributes and analyzing them while the disc drive is in normal use" wherein "[t]he Critical

Event Log 121 contains historical information of the disc drive. All events, errors, and/or any disc

drive operation information that are useful for failure analysis of a disc drive are stored in the

Critical Event Log 121." (¶ 0034 and 0038). Gray et al., teaches an apparatus and method for

predicting failures of a disk drive, where "[t]est data may then be periodically transmitted, e.g., e-

mailed, to the central site for diagnosis, step 4. When anomalies are detected and diagnosed

alarm notices and the diagnostic drive reliability trend chart" (e.g., a summary of the analysis)

"(FIG. 9) may be transmitted, e.g., e-mailed, to the computer user along with suggested solutions"

(e.g., to determine whether a change is to be made) "such as backup up data on the suspect disk

and upgrade the reliability of the disk drive, step 5." Where Gray et al, teaches that after

performing a monitoring test, a summary of the analysis (e.g., diagnosed alarm notices and the

diagnostic drive reliability trend chart) are send to a computer user (e.g., interested entity)

automatically (col. 11, lines 53-60. However, Lenny et al., in view of Gray et al., does not explicitly

disclose automatically changing the product of an entity and the local product of the product user based on the results of a second analysis received by the autonomic logic as recited in independent claims 1, 49 and 60.

6.   Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nadja Chong Cruz whose telephone number is (571) 270-3939. The examiner can normally be reached on Monday to Friday, 8 am to 5 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nadja Chong/
Examiner, Art Unit 3623

/Beth V. Boswell/

Supervisory Patent Examiner, Art Unit 3623